



Reprinted
January 28, 2004

SENATE BILL No. 194

DIGEST OF SB 194 (Updated January 27, 2004 3:22 pm - DI 105)

Citations Affected: IC 31-34.

Synopsis: Presumption concerning child sexual abuse. Provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of certain sex offenses; (2) lives in the same household as the adult who committed the sex offense; (3) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court; and (4) has been placed in or has been considered for placement in an informal adjustment program. Establishes a rebuttable presumption that a child is a CHINS if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication concerning the child victim. Provides that a child presumed to be a CHINS may not be taken into custody or emergency custody unless a court finds cause following a hearing.

Effective: July 1, 2004.

**Dillon, Clark, Broden, Waterman,
Skillman**

January 6, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.
January 15, 2004, reported favorably — Do Pass.
January 27, 2004, read second time, amended, ordered engrossed.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 194

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child
3 in need of services if, before the child becomes eighteen (18) years of
4 age:

5 (1) the child is the victim of a sex offense under:

6 (A) IC 35-42-4-1;

7 (B) IC 35-42-4-2;

8 (C) IC 35-42-4-3;

9 (D) IC 35-42-4-4;

10 (E) IC 35-42-4-7;

11 (F) IC 35-42-4-9;

12 (G) IC 35-45-4-1;

13 (H) IC 35-45-4-2; or

14 (I) IC 35-46-1-3; and

15 (2) the child needs care, treatment, or rehabilitation that: ~~the~~
16 ~~child:~~

17 (A) **the child** is not receiving; and

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(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2; or

(I) IC 35-46-1-3;

(2) the child lives in the same household as the adult who committed the sex crime under subdivision (1) and the sex crime resulted in a conviction or a judgment under IC 31-34-11-2;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

(A) was committed by an adult who lives in the household with the child; and

(B) resulted in a conviction of the adult or a judgment

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- 1 under IC 31-34-11-2 as it relates to the child against whom
 2 the sex offense was committed.
- 3 (b) The following may not be used as grounds to rebut the
 4 presumption under subsection (a):
- 5 (1) The child who is the victim of the sex offense described in
 6 IC 31-34-1-3 is not genetically related to the adult who
 7 committed the act, but the child presumed to be the child in
 8 need of services under this section is genetically related to the
 9 adult who committed the act.
- 10 (2) The child who is the victim of the sex offense described in
 11 IC 31-34-1-3 differs in age from the child presumed to be the
 12 child in need of services under this section.
- 13 (c) A child presumed to be a child in need of services under this
 14 section may not be taken into custody or emergency custody under
 15 IC 31-34-2 unless the court first finds cause to take the child into
 16 custody or emergency custody following a hearing in which the
 17 parent, guardian, or custodian of the child is accorded the rights
 18 described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).
- 19 (d) This section does not affect the ability to take a child into
 20 custody or emergency custody under IC 31-34-2 if the act of taking
 21 the child into custody or emergency custody is not based upon a
 22 presumption established under this section.

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SENATE MOTION

Madam President: I move that Senators Broden and Waterman be added as coauthors of Senate Bill 194.

DILLON

SENATE MOTION

Madam President: I move that Senator Clark be added as second author and Senator Skillman be added as coauthor of Senate Bill 194.

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 194, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 194 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 194 be amended to read as follows:

Page 2, line 15, delete "and".

Page 2, between lines 15 and 16, begin a new line block indented and insert:

"(2) the child lives in the same household as the adult who committed the sex crime under subdivision (1) and the sex crime resulted in a conviction or a judgment under IC 31-34-11-2;"

Page 2, line 16, delete "(2)" and insert "(3)".

Page 2, line 19, delete "." and insert "; and".

Page 2, between lines 19 and 20, begin a new line block indented and insert:

"(4) a caseworker assigned to provide services to the child:
(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or
(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate."

Page 3, after line 6, begin a new paragraph and insert:

"(d) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section."

(Reference is to SB 194 as printed on January 16, 2004.)

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